

REMARKS

Applicants have carefully considered the April 18, 2007 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 19-25 were pending in this application. Dependent claim 25 was withdrawn from consideration pursuant to the previous restriction requirement. Upon allowance of generic claim 19, Applicants are entitled to consideration of claim 25 which is dependent upon the generic claim. 37 C.F.R. § 1.141.

In response to the Office Action dated April 18, 2007, claims 19 and 21 have been amended. New dependent claim 26 has been added. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments and related discussion thereof in the written description of the specification, including page 14, lines 26-31. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

Claims 19-22 were rejected under 35 U.S.C. § 102 as being anticipated by either of Belser (U.S. Pat. No. 6,643,082) or Kimura et al. (U.S. Pat. No. 6,352,656). Applicants respectfully traverse.

Applicants would stress that the factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d

1358, 66 USPQ2d 1801 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002). There are significant differences between the claimed subject matter and the disclosures of Belser or Kimura that would preclude the factual determination that either patent identically describes the claimed subject matter within the meaning of 35 U.S.C. § 102.

Independent claim 19 has been amended to describe a stamper with means for embossing a pattern of sinusoidally-shaped recesses. In other words the stamper of claim 19 is adapted to emboss a textured pattern that has a plurality of sinusoidally-shaped recesses in the landing zone of the substrate surface.

Independent claim 21 describes a stamper for embossing at least one pattern of recesses in a surface of a substrate for a magnetic recording medium. The stamper of claim 21 includes a stamping surface including a pattern of sinusoidally-shaped protrusions, wherein the pattern of sinusoidally-shaped protrusions is a negative image of the pattern of recesses to be embossed in the surface of the substrate.

Applicants respectfully submit that neither Belser nor Kimura discloses or suggests: a stamper with means for embossing a pattern of sinusoidally-shaped recesses, as required in claim 19; or a stamper having a surface including a pattern of sinusoidally-shaped protrusions, as required in claim 21. See Figures 4-6 and 10 of Belser and Figures 1D, 2D and 4D of Kimura. The Examiner, at page 3 of the Office action, refers to Belser at Figures 4-6 and 10 as allegedly teaching sinusoidal shapes. Applicants submit, however, that although Belser may disclose rectangular shapes in Figures 4-6 and 10, Belser neither discloses nor remotely suggests sinusoidal shapes, as required in the present claims. Similarly, Kimura at Figs. 1D, 2D and 4D may disclose rectangular shapes, however, the reference is silent as to sinusoidal shapes.

The above argued difference between the claimed subject matter undermines the factual determination that Belser or Kimura discloses the stamper identically corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 86 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claims 19-22 under 35 U.S.C. § 102 for lack of novelty as evidenced by Belser or Kimura is not factually viable and, hence, solicit withdrawal thereof.

Dependent claim 23 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Belser or Kimura in view of DePuydt et al. (U.S. Pat. No. 6,030,556). Applicants traverse.

Dependent claims 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Belser or Kimura in view of Kanome et al. (U.S. Pat. No. 5,320,514). Applicants traverse.

Applicants incorporate herein the arguments previously advanced in traversal of the rejection of claims 19-22 under 35 U.S.C. § 102 predicated upon Belser or Kimura. The secondary references to DePuydt or Kanome do not cure the argued deficiencies of Belser or Kimura. Thus, even if the applied references are combined as suggested by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the claimed invention will not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). Reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are solicited.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an

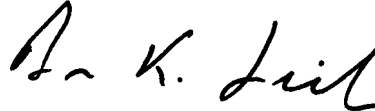
10/642,265

Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Brian K. Seidleck
Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:idw
Facsimile: 202.756.8087
Date: June 15, 2007

**Please recognize our Customer No. 49745
as our correspondence address.**